

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 247/2005
(Sabir Khan Vs. Smt. Firdos)

Date of Order : 14/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. B.K.Mehar for the petitioner
Mr. A.A.Khan for the non-petitioner.

BY THE COURT:-

By the instant criminal revision petition under Section 397 r/w Section 401 Cr.P.C., the petitioner has challenged the order dated 11.10.2004 passed by the Judge, Family Court, Jodhpur (for short 'the trial court' hereinafter) in criminal case No.175/02, whereby the application filed by the non-petitioner under Section 125 Cr.P.C. was allowed and maintenance at the rate of Rs.700/- per month in favour of non-petitioner was granted from the date of application 22.11.2002. Aggrieved by the order impugned, the petitioner has filed the instant revision petition.

I have heard learned counsel for the petitioner and

counsel appearing for the non-petitioner. Carefully gone through the order impugned and the material available on record.

The petitioner has not disputed that the non-petitioner is his legally wedded wife. The non-petitioner in her petition under Section 125 Cr.P.C., alleged that she was subjected to cruelty by the petitioner and given beating and ultimately turned out of the matrimonial home and therefore, she has been residing at her parent's house. She also stated that the petitioner having sufficient means failed to maintain her and neglected her. Before the trial court, the non-petitioner wife herself appeared as PW-1 and produced her father as witness PW-2 Nisar Khan.

PW-1 Firdos stated that the petitioner has been demanding a sum of Rs. 50,000/- and after consuming liquor the petitioner used to give beating to her. She further stated that on non-fulfillment of demand of Rs. 50,000/-, she was given beating and turned out of the matrimonial home.

It appears from the material on record that when the parents of the non-petitioner came to know that the petitioner used to give beatings to their daughter, the father and uncle of the non-petitioner went to Balesar and brought the non-

petitioner from the petitioner's house. There are criminal cases between the parties and parties appear to have suffered injuries. Be that as it may. From the evidence it has been established that the non-petitioner is legally wedded wife of the petitioner and the petitioner has failed to maintain her. It has also been established that the petitioner is having sufficient means as alleged by the non-petitioner that he is earning Rs. 200/- per day from the mines apart from his having certain shops. Thus, The maintenance of Rs. 700/- per month awarded by the trial court in any manner cannot be said to be on higher side. The witness produced by the petitioner namely Sumer Khan and Babu Khan also stated that there had been some quarrel between the petitioner and the non-petitioner. The stand taken by the non-petitioner finds support from the statement of witnesses produced by the petitioner himself. In the circumstances, therefore, it cannot be said that the trial court committed any error, illegality or perversity while passing the order impugned.

In this view of the matter, I do not find any merit in the revision petition. The revision petition is therefore, dismissed.

(H.R.PANWAR),J.

Rp